

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TOMMIE STELTING,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-20-0640-HE
)	
KILOLO KIJAKAZI, Acting)	
Commissioner of the Social Security)	
Administration.)	
)	
Defendant.)	

ORDER

Plaintiff Tommie Stelting appealed the final decision of the Commissioner of the Social Security Administration which denied his application for disability insurance benefits. The case was referred to Magistrate Judge Shon T. Erwin for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B) & (C). Judge Erwin has issued a Report and Recommendation recommending that the Commissioner’s decision be reversed and remanded for further proceedings. Defendant has objected to the Report which triggers *de novo* review of the matters to which objection has been made.

Defendant contends that the Report improperly contends that the Administrative Law Judge should have explained why plaintiff’s condition did not meet the appropriate medical standard. Defendant is correct that an ALJ is not required to articulate specific evidence supporting a medical listing when stating that conclusion. But if they choose to rule in that manner, the “articulation of the reason(s) why the individual is or is not disabled at a later step in the sequential evaluation process will provide rationale that is sufficient


for a subsequent reviewer or court to determine the basis for the finding about medical equivalence at step 3.” S.S.R. 17-2p, 2017 WL 3928306 at *4. This was not done by the ALJ.

As the Report notes, “the ALJ did not cite medical records that conclusively negate the possibility that” plaintiff’s condition did not meet the medical listing standard. Thus, the court is unable to determine the basis for the finding about medical equivalence. The court concludes the Report properly concludes that the ALJ did not sufficiently document the step 3 analysis. This does not suggest that the ALJ’s decision was wrong as a substantive matter, but rather focuses on the ALJ’s articulation of the basis for the decision. While the court views this case as a particularly close call, it agrees with the Report that further proceedings are required.

Accordingly, the Report and Recommendation [Doc. #25] is **ADOPTED**. The decision of the Commissioner is **REVERSED**, and this case is **REMANDED** for further administrative proceedings consistent with the Report.

IT IS SO ORDERED.

Dated this 7th day of February, 2022.



JOE HEATON
UNITED STATES DISTRICT JUDGE